

**Cedar Hill Independent School District  
BOARD OF TRUSTEES**

**Meeting Date:** December 14, 2009  
**Presented by:** Mr. Horace Williams, Superintendent of Schools  
**Subject:** Consider Policy DEC (Local) on Second Reading

**Action Item**

**BOARD GOAL:**

*Recruit, develop and retain highly qualified employees in an environment that embraces diversity.*

This agenda item addresses employee leaves and absences.

**BACKGROUND INFORMATION:**

Policy DEC (Local) – Compensation and Benefits / Leaves and Absences has been reviewed and edited by the District's TASB Policy Service agent. The major changes include:

- Addition of "next of kin" as appropriate to comply with FMLA
- Adds use of intermittent FMLA leave for care of newborn / new adoption
- Aligns local leave days for all maintenance / custodial / technology personnel at 5 days
- Adds a Neutral Absence Control Policy

**RECOMMENDATION:**

It is recommended that the Board approve Policy DEC (Local) as presented.

This will constitute the second and final reading of the Policy.

**BOARD ACTION REQUIRED:**

Motion to approve Policy DEC (Local).

**POLICY AUTHORIZATION:**

BF (Local) – Board Policies

**CONTACT PERSON:**

Shana Nix, Executive Director, Human Resources  
L. Kim Lewis, Chief Operating Officer

**FUNDING SOURCE:**

N/A

**ENCLOSURES:**

Policy DEC (Local) as proposed for approval.

—DRAFT 10/5/09—

DEFINITIONS

The term "immediate family" is defined as:

FAMILY

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee's household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son or daughter, and next of kin are found in DECA(LEGAL).

FAMILY  
EMERGENCY

The term "family emergency" shall be limited to disasters and life-threatening situations involving the employee or a member of the employee's immediate family.

WORKDAY

A "workday" for purposes of earning, use, or recording shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

CATASTROPHIC  
ILLNESS OR INJURY

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the District. Complications resulting from pregnancy shall be treated the same as any other condition.

AVAILABILITY

The District shall make paid leave for the current year available for use at the beginning of the school year.

The District shall not approve paid leave for more workdays than have been accumulated in prior years plus those to be earned during the current year. Any absences beyond available paid leave shall result in deductions from the employee's pay.

EARNING LEAVE

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An employee shall not earn leave when he or she is in unpaid status. An employee using full or proportionate paid leave shall be considered to be in paid status.

When an employee has used more leave than he or she has earned, the District shall deduct the cost of unearned leave days from the employee's final paycheck for the year or from the last paycheck after the employee ceases to be employed by the District.

RECORDING

Leave shall be recorded as follows:

1. Leave shall be recorded in half-day increments for all employees.
2. If the employee is taking intermittent FMLA leave, leave shall be recorded in one-hour increments.

ORDER OF USE

Earned compensatory time shall be used before any available paid state and local leave. [See DEA]

Unless an employee requests a different order, available paid state and local leave shall be used in the following order, as applicable:

1. Local leave.
2. State sick leave accumulated before the 1995-96 school year.
3. State personal leave.

Use of sick leave bank days shall be permitted only after all available state and local leave has been exhausted.

CONCURRENT USE OF  
LEAVE

When an absent employee is eligible for FMLA leave, the District shall designate the absence as FMLA leave.

The District shall require the employee to use temporary disability leave and paid leave, including compensatory time, concurrently with FMLA leave.

An employee receiving workers' compensation income benefits may be eligible for paid or unpaid leave. An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

MEDICAL  
CERTIFICATION

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than five consecutive workdays because of personal illness or illness in the immediate family;

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2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or Superintendent;
3. The employee requests FMLA leave for the employee's serious health condition or that of a spouse, parent, or child; or
4. The employee requests FMLA leave for military caregiver purposes.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

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**Note:** For District contribution to employee insurance during leave, see CRD(LOCAL).

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STATE PERSONAL  
LEAVE

For purposes of this section, each employee shall earn state personal leave up to the statutory maximum of five workdays annually at the rate established in administrative regulations.

The Board requires employees to differentiate the manner in which state personal leave is used:

NON-  
DISCRETIONARY  
USE

1. Non-discretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]

Non-discretionary use also includes leave for well-baby care within the first year after birth, adoption, or placement of a child.

DISCRETIONARY  
USE

2. Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

LIMITATIONS  
REQUEST FOR  
LEAVE

The employee shall submit a written request for discretionary use of state personal leave to the immediate supervisor or designee in advance in accordance with administrative regulations. In deciding whether to approve or deny state personal leave, the supervisor or designee shall not seek or consider the reasons for which an employee requests to use leave. The supervisor or designee shall, however, consider the effect of the employee's absence on the educational program or District operations, as well as the availability of substitutes.

DURATION OF  
LEAVE

Discretionary use of state personal leave shall not exceed three consecutive workdays.

LOCAL LEAVE

All employees shall earn five workdays of paid local leave per school year in accordance with administrative regulations.

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Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state personal leave. [See STATE PERSONAL LEAVE, above]

SICK LEAVE BANK

The District shall establish a sick leave bank that employees may join through contribution of local leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may request leave from the bank if the employee or a member of the employee's immediate family experiences a catastrophic illness or injury and the employee has exhausted all paid leave.

If the employee is unable to request leave from the sick leave bank, a member of the employee's family or the employee's supervisor may submit the request.

The Superintendent or designee shall develop regulations for the operation of the sick leave bank that address the following:

1. Membership in the sick leave bank, including the number of days an employee must donate to become a member;
2. Procedures to request leave from the sick leave bank;
3. The maximum number of days per school year a member employee may receive from the sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the sick leave bank.

APPEAL

All decisions regarding the sick leave bank may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

FAMILY AND MEDICAL  
LEAVE

For purposes of an employee's entitlement to FMLA, the 12-month period shall begin on the first duty day of the school year.

TWELVE-MONTH  
PERIOD

COMBINED LEAVE  
FOR SPOUSES

If both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks. [See DECA(LEGAL)]

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INTERMITTENT OR REDUCED SCHEDULE LEAVE	The District shall permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee. [See DECA(LEGAL) for use of intermittent or reduced schedule leave due to a medical necessity.]
CERTIFICATION OF LEAVE	If an employee requests leave, the employee shall provide certification, as required by FMLA regulations, of the need for leave. [See DECA(LEGAL)]
FITNESS-FOR-DUTY CERTIFICATION	If an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification. If the District will require certification of the employee's ability to perform essential job functions, the District shall provide a list of essential job functions to the employee with the FMLA designation notice.
END OF SEMESTER LEAVE	If a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester. [See DECA(LEGAL), LEAVE AT THE END OF A SEMESTER]
FAILURE TO RETURN	If, at the expiration of FMLA leave, the employee is able to return to work but chooses not to do so, the District may require reimbursement of premiums paid by the District during the leave. [See DECA(LEGAL), RECOVERY OF BENEFIT COST]
TEMPORARY DISABILITY LEAVE	<p>Any full-time employee whose position requires educator certification by the State Board for Educator Certification or by the District shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for reinstatement.]</p> <p>An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent or designee as a request for temporary disability leave.</p>
WORKERS' COMPENSATION	<hr/> <p><b>Note:</b> Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance. [See CRD(LOCAL) regarding payment of insurance contribution during employee absences.]</p> <hr/>

An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

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COURT  
APPEARANCES

An employee eligible for workers' compensation income benefits, and not on assault leave, may elect in writing to use paid leave.

Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.

Absences for court appearances related to an employee's personal business shall be deducted from the employee's available paid leave or shall be taken by the employee as leave without pay.

REIMBURSEMENT OF  
LEAVE UPON  
RETIREMENT

The following leave provisions shall apply to local leave earned beginning on the original effective date of this program.

An employee who from the District under the Teacher Retirement System (TRS) shall be eligible for reimbursement of local leave under the following conditions:

1. The employee provides advance written notice of intent to separate from employment. Contract employees must provide written notice at least 90 days before the last day of employment. Non-contract employees must provide written notice at least two weeks before the last day of employment.
2. The employee has at least ten years of service with the District.

If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

Professional employees shall be reimbursed at the rate of \$50 for each day of accumulated local leave. Paraprofessionals and auxiliary employees shall be reimbursed at the rate of \$35 for each day of accumulated local leave.

The rate established by the Board shall be in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.

If an employee should die before retirement with the District, his or her beneficiaries shall be reimbursed for all previously earned local days.

For the purpose of this policy, a beneficiary shall be defined as the person or entity named by the employee for the receipt of live insurance proceeds under the District's employee benefits program.

NEUTRAL ABSENCE  
CONTROL POLICY

If an employee does not return to work after exhausting all available paid and unpaid leave, the District shall provide the employee written notice that he or she no longer has leave available for use.

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The District shall automatically pursue termination of an employee who has exhausted all available leave, regardless of the reason for the absence [see DF series]. If terminated, the employee may apply for reemployment with the District.